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REMARKS

This amendment is intended as a full and complete response to the Action mailed August 19, 2003. In the Action, the Examiner notes that claims 1-20 are pending, of which claims 1-20 stand rejected. By this amendment, claims 1, 10, and 13 are amended. In particular, the Applicants have amended claims 1 and 10 to include the subject matter of dependent claims 6 and 14, respectively. Further, claims 5, 6, and 14 are canceled, and claims 2-4, 7-9, 11-12, and 15-20 continue unamended.

In view of both the amendments presented above and the following discussion, the applicants submit that none of the claims now pending in the application are non-enabling, anticipated, or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, the Applicants believe that all of the pending claims are now in allowable form.

REJECTIONS

REJECTION OF CLAIMS UNDER 35 U.S.C. §102

The Examiner has rejected claims 1-5, 7-13 and 15-20 under 35 U.S.C. 102(e) as being anticipated by Gordon et al. (U.S. Patent Pub. No. 2003/0052905) ("Gordon"). The Applicants respectfully traverse the rejection.

The Applicants have amended claims 1 and 10 to include the subject matter of dependent claims 6 and 14, respectively.

The Applicants' claim 1, as amended, recites:

"A method for managing delivery of video sequences of an interactive program guide (IPG) over a communications network to a plurality of terminals, the method comprising:

pre-allocating a broadcast bandwidth in the communications network for common video sequences to be transmitted by a broadcast technique, said common video sequences comprising IPG pages for a current time period and IPG pages for a prime viewing time period;

transmitting in the broadcast bandwidth the common video sequences to the plurality of terminals by way of the broadcast technique;

receiving a request for a specific video sequence from a specific terminal via the communications network;

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allocating a demandcast bandwidth in the communications network for the specific video sequence; and
transmitting in the demandcast bandwidth the specific video sequence to the specific terminal via the communications network.” (emphasis added).

The Applicants’ claim 10, as amended, recites:

“A method for managing delivery of a plurality of video sequences that comprise interactive program guide (IPG) pages, the method comprising:

predetermining a set of video sequences to be broadcast;
allocating a broadcast bandwidth within a network with a finite bandwidth for the set of video sequences;

broadcasting the set of video sequences via the broadcast bandwidth to a plurality of terminals;

receiving a request from a specific terminal for a specific video sequence which is not within the set of video sequences to be broadcast;

allocating a demandcast bandwidth within the network for the specific video sequence;

transmitting the specific video sequence via the demandcast bandwidth to the specific terminal to fulfill the request; and

predetermining a second set of video sequences to be broadcast, wherein the second set of video sequences comprises IPG pages for prime viewing time periods.” (emphasis added).

Gordon discloses a method and apparatus that provides an interactive menu structure (i.e., a navigator) for an on-screen program guide for use with an information distribution system. The Gordon arrangement is implemented as one or more interrelated "applets" which, when taken together, form a navigator. When a user selects a particular icon, a graphic object in a graphic layer or overlay plane is altered to de-emphasize or emphasize the selected icon or the video underlying the graphic object. In other words, the graphic layer imagery of the selected object is altered from one state to another state to facilitate the emphasis/de-emphasis of a particular region of the menu.

In addition, Gordon indicates, in paragraph 107, that “[b]riefly, the invention operates to maximally utilize the bandwidth within an interactive information distribution system by allocating system functionality to system components.” Gordon provides more detail with respect to bandwidth utilization,
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in the description of Figure 21. Specifically, paragraphs 111-115 only state that the video streams are suitable for providing the video information necessary to support the IPG display.

The Applicants disclose methods for bandwidth management when finite bandwidth is available. For example, the Applicants allocate bandwidth for the transmission of IPG page(s) and video sequences before their transmission. The Applicants' independent claims 1 and 10 recite embodiments which contain these features. That is, the Applicants' methods allocates broadcast bandwidth in the communications network for common video sequences to be transmitted by a broadcast technique, where the common video sequences comprise IPG pages for a current time period and IPG pages for a prime viewing time period. By contrast, Gordon does not disclose that the common video sequences comprise IPG pages for a current time period and IPG pages for a prime viewing time period.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984)(citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 U.S.P.Q. 193 (Fed. Cir. 1983)) (emphasis added). The Gordon reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

As such, the Applicants submit that independent claims 1 and 10 are not anticipated under 35 U.S.C. §102 and are fully patentable thereunder. Furthermore, dependent claims 2-4 and 7-9 (which depend, either directly or indirectly, from independent claim 1) and claims 11-13 and 15-20 (which depend, either directly or indirectly, from independent claim 10) are also patentable at least for their dependency upon a patentable independent claim. At least the reasons given above, the Applicants submit that claims 1-5, 7-13, and 15-20 are not anticipated under 35 U.S.C. §102 and are fully patentable thereunder. Therefore, the Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §102 rejection.

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REJECTION OF CLAIMS UNDER 35 U.S.C. §103(a)

The Examiner rejected claims 6 and 14 under 35 U.S.C. §103 as being obvious and unpatentable over Gordon in view of Allison et al. (U.S. Patent No. 6,262,722, issued July 17, 2001) ("Allison"). The rejection is respectfully traversed.

The Applicants have amended independent claims 1 and 10 to include the respective subject matter of dependent claims 6 and 14. Further, as Gordon was filed July 22, 1999 and was published March 20, 2003 after Applicants' March 14, 2003 filing date, Gordon is a 102(e) type reference.

Gordon is commonly assigned to SEDNA Patent Services (formally DIVA Systems Corporation and TVGateway, LLC), which was recorded on November 1, 2000 (reel/frame 011230/0770, reel/frame 014567/0512, and reel/frame 015177/0980). Applicants' invention is also assigned to SEDNA Patent Services, and was recorded on September 05, 2000 (reel/frame 011146/0602, reel/frame 011146/0512, and reel/frame 015177/0980).

35 U.S.C. §103 prescribes conditions for patentability and non-obvious subject matter. In particular, 35 U.S.C. §103(c) states that:

[s]ubject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Applicants' invention and Gordon were, at the time Applicants' invention was made, owned by, or subject to an obligation of assignment to, DIVA Systems Corporation (now SEDNA Patent Services). Accordingly, Gordon does not preclude patentability under the provisions of 35 U.S.C. § 103(c), as amended by the American Inventors Protection Act of 1999 (see MPEP 706.02(I)(1)).

Moreover, the Allison reference does not teach or suggest the invention of amended claims 1 and 10. In particular, the Allison reference merely discloses an interactive program guide system. The program guide system has a logically flat navigator menu structure made up of program guide categories and selectable program guide options. Program guide categories correspond to fairly broad groups of program guide features. Selectable program guide options

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correspond to more specific program guide features. Each program guide category has associated selectable program guide options. Allison further discloses how the program guide categories and selectable program guide options are displayed (see Allison Abstract).

However, Allison is also silent with respect to the allocation of bandwidth, as recited and explained above with respect to Applicants' claims 1 and 10. As such, Allison does not render Applicants' claims 1 and 10, as amended, obvious.

As such, the applicants submit that independent claims 1 and 10, as amended, are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the applicants respectfully request that the rejection be withdrawn.

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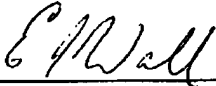
CONCLUSION

Thus, the Applicants submit that the pending claims are in condition for allowance. Furthermore, the Abstract has been amended as requested by the Examiner. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg, Esq. or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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